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ORIGINAL

April 23, 2012

FILED/ACCEPTED

BY HAND DELIVERY

APR 23 2012

Marlene H. Dortch
Secretary

Federal Communications Commission
Office of the Secretary

PUBLIC REFERENCE COPY

Federal Communications Commission
445 12th Street, S.W., Room TW-A306
Washington, D.C. 20554

Re: SI Wireless, LLC, Petition for Designation As an ETC in Tennessee, WC Docket No. 09-197, AU Docket No. 12-25, WT Docket No. 10-208

Dear Secretary Dortch:

On behalf of SI Wireless, LLC ("SI Wireless"), please find enclosed a redacted public version of SI Wireless' Petition for Designation ("Petition") as an Eligible Telecommunications Carrier ("ETC") in Tennessee, submitted pursuant to the Commission's recent Mobility Fund Phase I Public Notice.¹ The enclosed Petition has been marked "**REDACTED – FOR PUBLIC INSPECTION.**" Also enclosed is an additional copy to be date-stamped and returned to our messenger.

SI Wireless is also submitting to the Commission, under separate cover, a confidential version of the Petition. The confidential version is marked "**CONFIDENTIAL – NOT FOR PUBLIC INSPECTION.**"

¹ See *Eligible Telecommunications Carrier Designation for Participation in Mobility Fund Phase I*, Public Notice, DA 12-271 (rel. Feb. 24, 2012) (setting forth the requirements for ETC designation to participate in Auction 901 for Mobility Fund Phase I support) ("*Mobility Fund Phase I Public Notice*").

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Marlene H. Dortch
Secretary
Federal Communications Commission
April 23, 2012
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Please contact the undersigned if any questions arise concerning the above-referenced enclosures or if you require any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "T. B. Lantor", written over a horizontal line.

Todd B. Lantor
Marc A. Paul

Counsel for SI Wireless, LLC

Enclosures

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Telecommunications Carriers Eligible to)	
Receive Universal Service Support)	WC Docket No. 09-197
)	
Mobility Fund Phase I Auction)	AU Docket No. 12-25
)	
Universal Service Reform - Mobility Fund)	WT Docket No. 10-208
)	
SI Wireless, LLC)	
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
in the State of Tennessee)	

**PETITION OF SI WIRELESS, LLC FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER IN TENNESSEE**

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**PETITION OF SI WIRELESS, INC. FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER IN TENNESSEE**

SI Wireless, LLC ("SI Wireless" or "the Company"), pursuant to Section 214(e) of the Communications Act of 1934 (the "Act")¹ and Section 54.201 *et seq.* of the FCC's Rules, hereby submits this Petition for designation as an Eligible Telecommunications Carrier ("ETC") in the state of Tennessee for the purpose of participating in the High-Cost and Low-Income Universal Service Fund ("USF") support mechanisms, including the newly established Mobility Fund.² As set forth in the Commission's recent order and public notice, designation as an ETC is a requirement prior to participating in the upcoming Mobility Fund Phase I auction.³ As demonstrated in this Petition, SI Wireless

¹ 47 U.S.C. § 214(e).

² *Connect America Fund et al.*, FCC 11-161 at ¶¶ 389-92 (rel. Nov. 18, 2011) ("*Connect America Fund Order*").

³ *Id.* at ¶ 389. See also *Eligible Telecommunications Carrier Designation for Participation in Mobility Fund Phase I*, Public Notice, DA 12-271 (rel. Feb. 24, 2012) (setting forth the requirements for ETC designation to participate in Auction 901 for Mobility Fund Phase I support) ("*Mobility Fund Phase I Public Notice*").

meets all of the statutory and regulatory prerequisites for ETC designation, and designation of the Company as an ETC in the areas requested in Tennessee will serve the public interest.

Sections 214(e) and 254 of the Act expressly authorize the Commission to designate SI Wireless as an ETC.⁴ Section 214(e)(6) of the Act provides that the FCC may designate a common carrier as an ETC where, as here, that carrier's services are not subject to the jurisdiction of a state commission.⁵ SI Wireless has provided an affirmative statement from the Tennessee Regulatory Authority that it lacks jurisdiction over wireless providers for purposes of ETC designations. SI Wireless respectfully requests that the Commission grant this Petition expeditiously so that the company may participate in the High-Cost and Low-Income USF support mechanisms, including the upcoming Mobility Fund Phase I auction, and more qualified Tennessee residents can benefit from the high-quality and high-value services that the Company offers in the state.

I. BACKGROUND

A. SI Wireless, LLC

SI Wireless is a commercial mobile radio services ("CMRS") carrier licensed by the Commission to provide wireless communication services throughout portions of Tennessee. Formed in late 2009 by a partnership of rural independent telephone companies, SI Wireless is focused on providing wireless services in portions of rural Tennessee, which is the focus of this application, along with Kentucky with 3G CDMA technology. Using the latest in IP backhaul and the most advanced CDMA technologies,

⁴ 47 U.S.C. §§ 214(e), 254.

⁵ 47 U.S.C. §§ 214(e)(6).

SI Wireless seeks to efficiently deliver wireless voice and EVDO broadband to promote consumer choice throughout rural, underserved markets. As rural America seeks faster broadband speeds, SI Wireless seeks to position itself, through participation in USF support mechanisms, including the Mobility Fund Phase I auction, to deliver 3G and, eventually 4G data services, throughout rural, underserved markets.⁶

SI Wireless holds long term *de facto* spectrum transfer leases for the following personal communications service (PCS) license areas: certain counties and partial counties in BTA314 – Nashville, TN, certain counties in BTA083 – Clarksville-TN, certain counties in BTA96 – Cookeville, TN, the entire BTA120 – Dyersburg-Union City, TN, the entire BTA211 – Jackson, TN, certain county in BTA136 – Florence, TN, certain county in BTA198-Huntsville, TN, and certain counties and partial counties in BTA76 – Chattanooga, TN. SI Wireless will provide service in accordance with the terms of its leases and corresponding FCC licenses.

B. Designation of Eligible Telecommunications Carriers

Sections 214(e) and 254 of the Communications Act expressly authorize the FCC to designate SI Wireless as an ETC.⁷ Section 214(e)(6) of the Act provides that the FCC may designate a common carrier as an ETC where, as here, that carrier's services are not subject to the jurisdiction of a state commission.⁸ That provision further states that the FCC may, in the case of any area in Tennessee served by a rural telephone company, and

⁶ See *Connect America Fund Order* at ¶ 322 ("The goal of the Mobility Fund Phase I is to extend the availability of mobile voice service on networks that provide 3G or better performance and to accelerate the deployment of 4G wireless networks in areas where it is cost effective to do so with one-time support.").

⁷ 47 U.S.C. §§ 214(e), 254.

⁸ 47 U.S.C. § 214(e)(6). The Tennessee Regulatory Authority has confirmed that wireless communications carriers, such as SI Wireless, are not subject to state jurisdiction for purposes of ETC designation. See Exhibit A (attached). See also *Federal-State Joint Board on Universal Service*, Twelfth Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, at ¶ 96 (2000).

shall, in the case of any other area in Tennessee, designate more than one common carrier as an ETC, provided the requesting carrier: (i) offers services that are supported by federal universal service support mechanisms; and (ii) advertises the availability of such services.⁹ The FCC's rules impose additional requirements on a common carrier seeking designation as an ETC. As demonstrated below, SI Wireless satisfies each of these requirements.

C. Description of the SI Wireless' Proposed ETC Designation Area

SI Wireless, in its capacity as a provider of cellular services, is not a "rural telephone company" as that term is defined in Section 3(37) of the Act.¹⁰ Accordingly, SI Wireless is required to describe the geographic area in which it requests designation.¹¹ In this Petition, SI Wireless requests ETC designation in "rural" study areas of certain incumbent local exchange carriers ("LECs") in Tennessee identified in Exhibits B and C.¹²

Pursuant to Section 54.207 of the FCC's Rules,¹³ a "service area" is a "geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms."¹⁴ In an area served by a rural telephone company,

⁹ 47 U.S.C. § 214(e)(6).

¹⁰ 47 U.S.C. § 153(37).

¹¹ See 47 U.S.C. § 214(e). See also *Mobility Fund Phase I Public Notice* at ¶ 6.

¹² See Exhibit B (Map of SI Wireless' Proposed ETC Service Area) and Exhibit C (List of Rural and Non-Rural Study Areas/Wire Centers to Be Served by SI Wireless in its Proposed ETC Service Area). To the extent that any wire centers have been inadvertently excluded from Exhibit C, the Applicant intends to serve the entire study areas of the following rural incumbent local exchange carriers: Ardmore Telephone Company, Inc., Ben Lomand Rural Telephone Cooperative, Inc., Bledsoe Telephone Cooperative, Centurytel of Adamsville, Inc., Citizens Communications Company of Tennessee (d/b/a Frontier Communications of Tennessee, LLC), Crockett Telephone Company, Inc., Dekalb Telephone Cooperative, Humphreys County Telephone Co., Loretto Telephone Company, Inc., Peoples Telephone Company, Inc., Tennessee Telephone Company, United Telephone Company, Inc., West Kentucky Rural Telephone Cooperative Corporation, Inc., West Kentucky Rural Telephone Cooperative, Inc. and West Tennessee Telephone Company, Inc.

¹³ 47 C.F.R. § 54.207.

¹⁴ 47 C.F.R. § 54.207(a).

the FCC's rules define "service area" to mean the LEC study area unless a different definition of service area is established for such company.¹⁵ The Commission may designate SI Wireless as an ETC in those areas upon a finding that such designation is in the public interest, as set forth below.

II. TENNESSEE DOES NOT REGULATE CMRS CARRIERS FOR ETC DESIGNATION PURPOSES

Section 254(e) of the Communications Act provides that "only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific universal service support."¹⁶ The Communications Act reserves the authority to designate entities as ETCs to state public utility commissions.¹⁷ Pursuant to Section 214(e)(6), however, the FCC may designate as an ETC "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission"¹⁸ The FCC has established that a carrier must demonstrate that it "is not subject to the jurisdiction of a state commission" before the FCC will review any ETC designation application.¹⁹ The FCC also has stated that any carrier seeking ETC designation from it must provide an "affirmative statement" from the state commission that it lacks jurisdiction to perform the ETC designation.²⁰

¹⁵ See 47 C.F.R. §54.207(b); see also *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket Nos. 96-45, 00-256, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, Further Notice of Proposed Rulemaking, Report and Order, 16 FCC Rcd 11244 (2001).

¹⁶ 47 U.S.C. § 254(e).

¹⁷ 47 U.S.C. § 254(e).

¹⁸ 47 U.S.C. § 214(e)(6).

¹⁹ *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Public Notice, 12 FCC Rcd 29947, 29948 (1997).

²⁰ See *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Twelfth Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12264 (2000). See also *Mobility Fund Phase I Public Notice* at ¶ 5.

The Tennessee Regulatory Authority has provided an affirmative statement that it lacks jurisdiction over wireless providers for purposes of ETC designations. The letter enclosed as Exhibit A meets the FCC's requirements for an affirmative statement from a state commission that requests for ETC designation are not within its jurisdiction and should be sought from the FCC. Accordingly, SI Wireless requests that the FCC designate it as "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission. . . ." ²¹

III. SI WIRELESS SATISFIES ALL OF THE STATUTORY AND REGULATORY PREREQUISITES FOR DESIGNATION AS AN ETC

SI Wireless satisfies each of the statutory and regulatory prerequisites set forth in the Communications Act and the FCC's rules:

A. SI Wireless Is a Common Carrier.

Section 3(10) of the Act, 47 U.S.C. § 153(10), defines a common carrier as "any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio...." SI Wireless meets the definition of a person, offers interstate communications by radio, and is a common carrier for hire.

B. SI Wireless Will Provide the Supported Services Through a Combination of Facilities-Based Service and Resale

SI Wireless will provide the supported services under Section 214(e)(1)(A) of the Act ²² and Section 54.101(a) of the FCC's Rules ²³ (1) by using SI Wireless' existing cellular network infrastructure, which consists of switching, trunking, cell sites, and network equipment, together with any expansions and enhancements to that network; and (2) should it become necessary, through the resale of another carrier's service. SI

²¹ 47 U.S.C. § 214(e)(6).

²² 47 U.S.C. § 214(e)(1)(A).

²³ 47 C.F.R. § 54.101(a).